



GAK 2173
PATENT
Attorney Docket N° 98-0674

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of : Brandon A. Grooters
Serial Number : 09/238,375
Filed : January 27, 1999
Group Art Unit : 2173
Examiner : Luu, S.
Title : METHOD AND APPARATUS FOR AUTOMATICALLY

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Technology Center 2120

GENERATING A DEVICE USER INTERFACE

Assistant Commissioner for Patents
Washington, DC 20231

TRANSMITTAL OF INFORMATION DISCLOSURE STATEMENT
AFTER MAILING DATE OF FINAL ACTION OR NOTICE OF ALLOWANCE
BUT BEFORE PAYMENT OF ISSUE FEE (37 C.F.R. §1.97(d))

NOTE: An information disclosure statement shall be considered by the Office if filed after the mailing date of either (1) a final action under § 1.113 or (2) a notice of allowance under § 1.311, whichever occurs first, but before payment of the issue fee, provided the statement is accompanied by: (i) a statement as specified in paragraph (e) of section 1.97, (ii) a petition requesting consideration of the information disclosure statement, and (iii) the petition fee set forth in § 1.17(i).

NOTE: If the information disclosure statement that contains the items required by 37C.F.R. § 1.97(d) is filed before, or simultaneously with, the payment of the issue fee, then it will be considered. See Notice of April 20, 1992 (1138 O.G. 37-41, 40) and 37 C.F.R. §1.97(d).

TIME OF TRANSMITTAL OF ACCOMPANYING
INFORMATION DISCLOSURE STATEMENT

1. The Information disclosure statement transmitted herewith is being filed *after* a final action under § 1.113, or a notice of allowance under § 1.311, whichever occurs first, but before, or simultaneously with, the payment of the issue fee.

WARNING: "A petition for suspension of action to allow applicant time to submit an information disclosure statement will be denied as failing to present good and sufficient reasons, since 37 C.F.R. 1.97 provides adequate recourse for the timely submission of prior art for consideration by the examiner." Notice of July 6, 1992 (1141 O.G. 63).

CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8

I hereby certify that this correspondence is being deposited with the United States Postal Service on March 5, 2001, in a First Class envelope, with sufficient postage thereon, addressed to:
Assistant Commissioner for Patents, United States Patent & Trademark Office, Washington, DC 20231.

Penny L. Flint
Penny L. Flint

DATED: March 5, 2001

03/09/2001 MWOLDER1 00000020 500439 09238375

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180.00 CH

STATEMENT, PETITION AND FEE

2. In accordance with the requirements of 37 C.F.R. § 1.97(d):
- A. Accompanying this transmittal is a statement, as specified in 37 C.F.R. § 1.97 (e).
 - B. Applicant hereby petitions for the consideration of the accompanying information disclosure statement. 37 C.F.R. § 1.97(d)(2).
 - C. Applicant submits the petition fee set forth in § 1.17(p) (\$180.00).

FEE DUE

3. Petition fee due (§ 1.17(p)): \$180.00.

METHOD OF PAYMENT OF FEE

Please charge the filing fee of **\$180.00** to Deposit Account N° 50-0439. Please charge any underpayments related to this *Transmittal* or credit any excess to Deposit Account N° 50-0439. A duplicate copy of this *Transmittal* is enclosed for accounting purposes only.

Please address all correspondence to: SUITER & ASSOCIATES PC
11516 Nicholas Street, Suite 205
Omaha, NE 68154-4409
(402) 496-0300 (Telephone)
(402) 496-0333 (Telecopier)



23531

PATENT TRADEMARK OFFICE

DATED: March 5, 2001.

Respectfully submitted,
Brandon A. Grooters,
Gateway, Inc.

By 

William J. Breen, III
Reg. N° 45,313

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#9
W. Meredith
PATENT 3/13/01

Attorney Docket N° 98-0674

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of : Brandon A. Grooters
Serial Number : 09/28,375
Filed : January 27, 1999
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Title : METHOD AND APPARATUS FOR AUTOMATICALLY
GENERATING A DEVICE USER INTERFACE

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Assistant Commissioner for Patents
Washington, DC 20231

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INFORMATION DISCLOSURE STATEMENT

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Penny L. Flint
Penny L. Flint

DATED: March 5, 2001

INFORMATION DISCLOSURE STATEMENT

Applicant submits herewith patents, publications or other information of which he is aware, which he believes may be material to the patentability of this application and in respect of which there may be a duty to disclose in accordance with 37 CFR 1.56.

While this Information Disclosure Statement may be "material" pursuant to 37 CFR 1.56, it is not intended to constitute an admission that any patent, publication or other information referred to herein is "prior art" for this invention unless specifically designated as such.

In accordance with 37 CFR 1.97(g) the filing of this Information Disclosure Statement shall not be construed to mean that a search has been made or that no other material information as defined in 37 CFR 1.56(a) exists.

The attached form, PTO-1449, provides a listing of patents, publications, or other information as required by 37 CFR 1.98(a)(1).


A copy of each of these items on PTO-1449 is supplied herewith.

DATED: March 5, 2001.

Respectfully submitted,

Brandon A. Grooters,

Gateway, Inc.

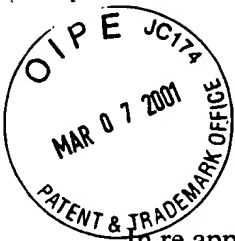
By: 
William J. Breen, III
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PATENT TRADEMARK OFFICE



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In re application of: Brandon A. Grooters

Serial Number : 09/28,375

Filed : January 27, 1999

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Examiner : Luu, S.

Title : METHOD AND APPARATUS FOR AUTOMATICALLY GENERATING
A DEVICE USER INTERFACE

Assistant Commissioner for Patents
Washington, DC 20231

STATEMENT FOR INFORMATION DISCLOSURE STATEMENT
UNDER 37 C.F.R. § 1.97(e)

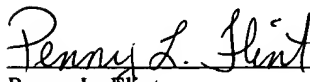
NOTE: A statement must state either: "(1) that each item of information contained in the information disclosure statement was cited in a communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of the information disclosure statement, or (2) that no item of information contained in the information disclosure statement was cited in a communication from a foreign patent office in a counterpart foreign application and to the knowledge of the person signing the statement after making reasonable inquiry, no item of information contained in the information disclosure statement was known to any individual designated in § 1.56(c) more than three months prior to the filing of the information disclosure statement." 37 C.F.R. § 1.97(e).

NOTE: "Section 1.97(e) makes it clear that a certification could contain either of two statements. One statement is that each item of information in an information disclosure statement was cited in a search report from a patent office outside the U.S. not more than three months prior to the filing date of the statement. Under this certification, it would not matter whether any individual with a duty actually know about any of the information cited before receiving the search report. In the alternative, the certification could state that no item of information contained in the information disclosure statement was cited in a communication from a foreign patent office in a counterpart foreign application or, to the knowledge of the person signing the certification after making reasonable inquiry, was known to any individual having a duty to disclose more than three months prior to the filing of the statement." Notice of January 9, 1992, 1135 O.G. 13-25, at 13. (emphasis added). Thus: "If an item of information is submitted within three months of being cited in a communication from a foreign patent office in a counterpart foreign application, the certification can be properly made regardless of any individual's previous knowledge of the information." Id., 1135 O.G. at 19.

NOTE: "The certification can be based on present, good faith knowledge about when information became known without a search of files being made." Thus, for example, the certification of § 1.97(e) does not preclude the use of the certification in an application by corporations whose practitioners have over the years reviewed thousands of patents and technical publications, even though they are unaware of the relevance of any one thereof to the application. Notice of January 9, 1992, 1135 O.G. 13-15, at 19.

CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8

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Penny L. Flint

DATED: March 5, 2001

- NOTE: A copy of the foreign search report need not be submitted with the certification. Notice of April 20, 1992 (1138 O.G. 37-41, 40).
- NOTE: "The phrase 'after making reasonable inquiry' makes it clear that the individual making the certification has a duty to make reasonable inquiry regarding the facts that are being certified. The certification can be made by a registered practitioner who represents a foreign client and who relies on the statements made by the foreign client as to the date the information first became known. A registered practitioner who receives information from a client without being informed whether the information was known for more than three months, however, cannot make the certification without making reasonable inquiry. For example, if an inventor gave a publication to the attorney prosecuting an application with the intent that it be cited to the Office, the attorney should inquire as to when that inventor became aware of the publication and should not submit a certification under 37 C.F.R. 1.97(e)(2) to the Office until a satisfactory response is received. The certification can be based on present, good faith knowledge about when information became known without a search of files being made." Notice of April 20, 1992 (1138 O.G. 37-41, 39).
- NOTE: "Although it is recognized that an individual actually becomes aware of the information in the communication from a foreign patent office sometime after it was mailed, the mailing date of such a communication, if it occurs prior to a first awareness of the same information, would determine the date for filing of an information disclosure statement without a fee" in a certification procedure under § 1.97(e). Notice of January 9, 1992, 1135 O.G. 13-25, at 19 (emphasis added).
- NOTE: The mere absence of an item of information from a foreign patent office communication is not intended to represent an opportunity to delay the submission of an item known more than three months prior to the filing of an information disclosure statement to an individual having the duty of disclosure under § 1.56. 62 Fed. Reg. 53,150 (Oct. 10, 1997).
- NOTE: "The certification under § 1.97(e) should be made by a person who has knowledge of the facts being certified. The certification can be made by a practitioner who represents a foreign client and who relies on statements made by the foreign client as to the date the information first became known. A practitioner who receives information from a client without being informed whether the information was known for more than three months, however, cannot make the certification without making reasonable inquiry." Notice of January 9, 1992, 1135 O.G. 13-25 at 19.
- NOTE: "The term counterpart foreign patent application means that a claim for priority has been made in either the U.S. application or a foreign application based on the other, or that the disclosures of the U.S. and foreign patent applications are substantively identical (e.g., an application filed in the European patent Office claiming the same U.K. priority as claimed in the U.S. application)." Notice of April 20, 1992 (1138 O.G. 37-41, 39).
- NOTE: "Individuals other than the attorney, agent or inventor may comply with this section by disclosing information to the attorney, agent or inventor." 37 C.F.R. § 1.56 (d) and
- "Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:
- (1) each inventor named in the application;
 - (2) each attorney or agent who prepares or prosecutes the application; and
 - (3) every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application." 37 C.F.R. § 1.56 (c).

IDENTIFICATION OF INFORMATION DISCLOSURE STATEMENT FOR WHICH THIS STATEMENT IS BEING MADE

1. This statement is being made for the Information Disclosure Statement
- ☒ accompanying this statement.
- ☐ filed _____

Date

STATEMENT

2. I, the person(s) signing below state:

- ☒ that each item of information contained in the information disclosure statement was cited in a communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of the information disclosure statement. 37 C.F.R. § 1.97(e)(1).

NOTE: The three month period starts from the mailing date of the foreign patent office communication. Notice of January 9, 1992, 1135 O.G. 13-25 at 19. The mailing date is the "date on the communication by the foreign patent office." Notice of April 20, 1992 (1138 O.G. 37-41, 39).

OR

- ☐ that no item of information contained in the information disclosure statement was cited in a communication from a foreign patent office in a counterpart foreign application and to the knowledge of the person signing the statement after making reasonable inquiry, was known to any individual designated in § 1.56(c) more than three months prior to the filing of the information disclosure statement. 37 C.F.R. § 1.97(e)(2).

NOTE: "The time at which information 'was known to any individual designated in 37 C.F.R. 1.56(c)' is the time when the information was discovered in association with the application even if awareness of the materiality came later." Notice of April 20, 1992 (1138 O.G. 37-41, 40).

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